IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.5895 OF 1996**

Pune Zilla Mazdoor Sangh
through the Secretary,
having office at 185, Shaniwar
Peth, Pune - 411 030 ... Petitioner

V/s.

1. M/s.Kripa Silicates Pvt. Ltd.
Ghotavade Phata, Pirangut
Taluka Mulshi, Dist.: PUne

2. Shir S.G. Kadam, Member
Industrial Court, Pune ... Respondents

Mr.S.M. Dharap for Petitioner
Mrs.Meena H. Doshi for Respondent No.1
Respondent No.2 - formal party

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 31, 2004**

**ORAL JUDGMENT:**

. This Petition challenges the order passed in a complaint in respect of an alleged lockout. The order impugned is dated 14.8.1996. It is the case of the Petitioner that the workers employed by Respondent No.1 became their members some time in March 1990 and a letter was addressed to respondent No.1 informing them of this fact on 2.12.1991. It is also alleged in the Petition that on 6.12.1991, the respondent company stopped working by informing the workers that their services were not required despite the fact that there

was no closure in the eyes of law. The Petitioner alleged that there was an illegal lockout declared by the respondent company and, therefore, filed a complaint on 9.1.1992 under Item 1(b) and 6 of Schedule II and Item 10 of Schedule IV of the MRTU & PULP Act. The main grievance of the Petitioner was that services of some of the workmen had been terminated and the illegal lockout had been declared only because the workers had joined the membership of the Petitioner. All these allegations were denied by the respondent in the written statement. Oral and documentary evidence was filed before the Court. The Industrial Court after considering the pleadings and the evidence on record has concluded by its order of 14.8.1996 that there was no unfair labour practices under any of the Items complained of by the Petitioner.

2. Mr.Dharap, learned Advocate for the Petitioner, contends that there was evidence on record to prove that the workmen were called on 6.7.1991 to either resign the membership of the union or to face the consequences. He submits that the respondent-company threatened the union members by using force, that their services would be dispensed with if they did not resign the membership immediately. He submits that this shows that the force used was sufficient to induce the workman to resign from the membership at the threat of the termination of

service.

3. Mrs.Doshi, learned Advocate for Respondent No.1, submits that there is no case made out by the Petitioner proving the unfair labour practice and in fact the Petition ought to be dismissed under Articles 226 and 227 of the Constitution of India as no interference is called for. According to her, the Industrial Court has considered all the evidence on record and has drawn the conclusion that no unfair labour practice has been committed.

4. On a perusal of the order of the Industrial Court, I find that that the Industrial Court has considered the evidence on record. The Industrial Court has found that there is no force used against the workmen and the term "force" used in Item 10 of Schedule IV of the MRTU & PULP Act means physical force as held in the judgment of the Supreme Court in the case of *The Raja Bahadur Motilal Poona Mills Ltd. v/s. Girni Kamgar Sanghatana & Anr.,* **1985 I LLJ 189.** The Industrial Court has also rightly held that the workmen were in employment upto 5.12.1999. The letter regarding formation of the union was received by the Respondent-company on 7.12.1991. The Industrial Court has on evidence held that they were not threatened on 6.7.1991 with dire consequences by the factory manager

if they did not resign from the membership of the union. Furthermore, the Industrial Court has rightly come to the conclusion that there is no unfair labour practice under Item 1 (b) of Schedule II of the MRTU & PULP Act. As regards the lockout, the Industrial Court has found that the evidence on record did not prove that there was a lockout nor is the claim made out by the Petitioner. The Industrial Court has found that it was in fact the workmen who did not report for duty after 7.12.1991. On this basis, the Industrial Court has rightly dismissed the complaint. I find that the Industrial Court has correctly appreciated the evidence on record and there is no need to interfere with the finding recorded by the Industrial Court. Besides this, after a period of 10 years, it would be futile to decide whether there is a lockout when it is not the case of the workman that the lockout still subsists.

5. Writ Petition rejected.